Climax Molybdenum Company
A Division of
AMAX, Inc.

October 5, 1987

Mr. Conrad J. Husman
P.O. Box 851
Pueblo, CO 81002

Dear Mr. Husman:

We have received word that your total and permanent disability claim with Metropolitan Life Insurance Company has been approved effective October, 1986. Enclosed is Metropolitan Life Insurance Company's check in the amount of $2,808.00 which represents your total and permanent disability payments for the months of October, 1986 through September, 1987.

You will receive a maximum of sixty (60) payments. All future checks will be sent directly from the insurance company.

You will continue to receive these disability payments for as long as you are unable to engage in any gainful occupation or employment up to the maximum of sixty (60) months.

Please complete the enclosed "Request for Payment Information" form. Once we have received this completed form, we will calculate your disability retirement benefits and send you all necessary information and forms to be completed by you in order to commence your retirement.

If you have any question, please contact the benefits office.

Very Truly Yours,

Barbara Randall
Industrial Relations
Administrator

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Enclosures

Climax Molybdenum Company
A Division of
AMAX, Inc.

August 21, 1989

Law Offices of Frederick Newall
Attn: Mr. Frederick W. Newall
730 N. Weber, Suite 101
Colorado Springs, CO 80903

Dear Mr. Newall:

First, you must realize that we will be discussing two different plan benefits concerning Conrad Husman which includes the Non-Contributory Retirement Income Plan and the Total and Permanent Disability Benefit (see attached F.W. Newall letter dated October 19, 1987).

When Conrad Husman submitted his Total and Permanent Disability Statement of Claims (4/11/86 and 4/22/86), they were forwarded to the Metropolitan Life Insurance Company. Metropolitan concluded that Conrad Husman was entitled to T&P Disability benefits retroactive to October, 1986. Since the T&P claim was not filed until the year 1986, Metropolitan does not back up and pay to when Mr. Husman first became disabled (1977) but begins paying six months from the date of when the claim was filed or received. This is consistent with the administration of the Group Insurance Program.

The money that Mr. Husman received on October 5, 1987, in the amount of $2,808.00 represents the life insurance in effect during 1977 when Conrad Husman was last working here at the Climax mine. The value of that group policy was $13,000.00. Total

and Permanent Disability Payments are paid for sixty months ($13,000.00 - 60 months + interest = $234.00 per month). The $2,808.00 represents payments from the date of approval, October, 1986 through September, 1987 ($234.00 x 12 months = $2,808.00). These T&P Disability payments will be paid at $234.00 per month until September, 1991.

Please note that I am **NOT** the Plan Administrator for this Plan. My responsibilities only include the completion of the employer section on the "Statement of Claim for T&P Disability Benefits" and filing of such claim with the Metropolitan Life Insurance Company. The Disability Claims Section of Metropolitan determines if indeed such a claim is eligible for T&P Disability benefits.

Now let's discuss the Disability Retirement of which I **AM** the Plan Administrator. Since Metropolitan Life Insurance Company approved Conrad Husman's T&P Disability claim, Mr. Husman is entitled to a Disability Retirement from the Non-Contributory Retirement Income Plan. Mr. Husman's years of service are figured as if he had been actively employed from March 28, 1962 through March 21, 1998 (60th birthday) which gives Conrad Husman a total of 36.2 years. It has always been the practice of the Climax Mine to use the date of notification from the Metropolitan Life Insurance Company to determine when Total and Permanent Disability Retirement benefits begin which in this particular case will be retroactive to October, 1986.

Under the Disability Retirement Income Plan, Conrad Husman may elect one of two options - Optional Form of Benefit, Life Annuity or Normal Form of Payment, Married. Those

approximate amounts are - Life Annuity Option payable for life only at $742.00 per month or Married Option payable at $582.00 per month and at his death a spouse option payable at $290.00 per month for the life of the spouse.

I have sent Conrad Husman two separate "Request for Payment Information" (October 5, 1987 and May 24, 1989) and as of this date have not heard one word from Mr. Husman. Until I receive this request containing the needed information, I cannot make an exact dollar calculation nor can I start Mr. Husman's Disability Retirement benefits.

As quoted from your letter dated April 13, 1988 (attached), you stated "Please be advised that your refusal to discuss this matter and to resolve it will lead my client to seek whatever remedies he has in a Court of Law". Please be advised that I have not refused to discuss this with Mr. Husman or yourself. I think the matter lies in the fact you and Mr. Husman cannot comprehend that the T&P Disability Benefit and the Disability Retirement are two different payments by two different accounts as stated in my letters of October 5, 1987, May 24, 1989, and the OCAW Grievance (all of which are attached) and several telephone conversations with you during late 1987 and early 1988.

I believe this adequately answers all of your questions concerning Conrad Husman and his benefits through the Climax Mine.

Very Truly Yours,

Barbara A. Randall
Industrial Relations Administrator

LAW OFFICES OF FREDERICK W. NEWALL
730 N. WEBER SUITE 101
COLORADO SPRINGS, CO 80903
(719) 633-5211

October 19, 1987

Climas Molybdenum Co.
Barbara Randall
Industrial Relations Administrator
Climax, CO 80429

Re: Conrad J. Husman

Dear Ms. Randall:

Mr. Husman is in receipt of both your "Request for Payment Information" form and a check from Metropolitan Insurance Company in the amount of $2808.00.

Would you be so kind as to give Mr. Husman a break-down as to why the onset of disability is set at October, 1986 when he left Climax's employ in a disabled condition in 1977?

Mr. Husman filed whatever protest and grievance are applicable as to the determination he was permanently disabled only beginning in 1986.

Also, it would help in Mr. Husman's mind in choosing a particular payment schedule if you would provide a break-down of the calculations to arrive at the $2808.00 figure.

If you have any questions, please do not hesitate contacting me at the above office.

Sincerely,

Frederick W. Newall

FWN/md

NO. _____

IN THE SUPREME COURT

OF THE

UNITED STATES OF AMERICA

October Term, 1993

Conrad John Husman,

Petitioner,

vs.

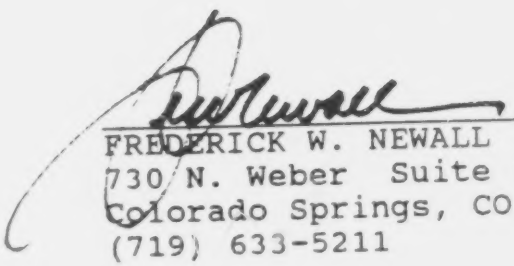
CLIMAX MOLYBDENUM COMPANY,
a Delaware corporation,
CLIMAX NON-CONTRIBUTORY
RETIREMENT INCOME PLAN,
BARBARA RANDALL,
Administrator,

Respondents.

CERTIFICATE OF SERVICE

I hereby certify that three (3) true and correct copies of the foregoing Petition for Writ of Certiorari were deposited in the U.S. mail, first class postage prepaid and affixed thereto, this 4th day of September, 1993, to the following:

Walter V. Siebert, Esq.
Sherman & Howard
633 Seventeenth Street
Suite 3000
Denver, CO 80202



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Attorney for Petitioner